

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT ELKINS**

UNITED STATES OF AMERICA,
Plaintiff,

v.

**CRIMINAL ACTION NO.: 2:23-CR-08
(Judge Kleeh)**

ETHAN D. DELAUDER
Defendant.

UNOPPOSED MOTION TO EXTEND TIME TO FILE NOTICE OF APPEAL

The Defendant, Ethan D. Delauder, through counsel and pursuant to Rule 4(b)(5) of the Federal Rules of Appellate Procedure, respectfully moves this Court to extend the time for the Defendant to file a notice of appeal. In support he states as follows:

1. On February 29, 2024, Mr. Delauder appeared at a sentencing hearing before Chief United States District Judge Thomas S. Kleeh and was sentenced to term of four-years' probation based on a conviction for Unlawful Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(9) and 924(a)(2).

2. On March 5, 2024, the Judgment Order was entered. The deadline to file a Notice of Appeal was March 19, 2024.

3. In the parties' plea agreement, Document Number 39, at paragraph 10, Mr. Delauder reserved the right to appeal the denial of his motion to dismiss; pursuant to Federal Rule Criminal Procedure 11(a)(2). This motion was denied on August 31, 2023, at Document Number 29.

4. On March 18, 2024, undersigned was in court for sentencing, addressed a time sensitive bond issue, and had client meetings at Central Regional Jail. On March 19, 2024, counsel was conducting witness interviews and additional obligations associated with handling approximately 30 other serious felony criminal cases. As a result of these obligations, undersigned failed to file the notice of appeal within 14 days of the Judgment being entered.

5. Federal Rule of Appellate Procedure 4(b)(5) provides that “[u]pon a finding of excusable neglect or good cause, the district court may -before or after the time has expired, with or without motion and notice, extend the time to file a notice of appeal for a period not to extend 30 days from the expiration of the time otherwise prescribed by the Rule 4(b).”

6. The Defendant submits that the circumstances in this case constitute either excusable neglect and/or good cause.

7. On March 20, 2024, AUSA Stephen Warner advised that the government does **not object** to this motion.

WHEREFORE, the Defendant respectfully requests that this Court issue an order permitted the Defendant to file a notice of appeal outside the 14-Day period.

Respectfully submitted,

Ethan D. Delauder

By Counsel

CERTIFICATE OF SERVICE

I certify that on March 20, 2024, I electronically filed the ***Unopposed Motion to Extend the Time to File Notice of Appeal*** *with* the Clerk of the Court using CM/ECF system, which will send notification of such filing to the counsel of record for the Office of the United States Attorney.

s/ Hilary L. Godwin

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